

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

Committee to Elect Mark James )

Mark James )

MUR 4976

Draft Mark James for Congress and )  
Larry W. Kifer, as treasurer )

CONCILIATION AGREEMENT

This matter was initiated by a signed, sworn and notarized complaint filed by Robert Conrad on February 23, 2000. The Federal Election Commission ("Commission") found reason to believe that the Committee to Elect Mark James and Mark James ("Respondents") violated 2 U.S.C. §441f. The Commission also found reason to believe that Draft Mark James for Congress and Larry W. Kifer, as Treasurer ("Respondents") violated 2 U.S.C. §§441f and 441a(a)(1)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered with prejudice pursuant to 2 U.S.C. §437g(a)(4)(A)(i).

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. Mark James is a natural person and at all times related to this matter he was a member of the Nevada State Senate.

2. The Committee to Elect Mark James is a political committee in Nevada state law, and was the state senate campaign committee for Mark James. It is not registered with the Commission as a Federal political committee.

3. Draft Mark James for Congress is a political committee within the meaning of 2 U.S.C. §431(4), is registered with the Commission, and was formed to encourage Mark James to become a candidate for the congressional seat from the First Congressional District of Nevada. Larry Kifer is the Treasurer of Draft Mark James for Congress. James was aware of its formation but it was not an authorized committee of Mark James.

4. Friends of Jon Porter, Inc. is a political committee within the meaning of 2 U.S.C. §432(e)(1). At all times relevant hereto, Jon Porter was a candidate for the Republican nomination for U.S. Representative from the First Congressional District of Nevada.

5. No person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed \$1,000.00. 2 U.S.C. §441a(a)(1)(A). The term "contribution" includes any gift, subscription, loan, advance or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. §431(8)(A)(i).

6. The term "political committee" means any committee, club, association or other group of persons which receives contributions aggregating in excess of \$1,000 during the calendar year or which makes expenditures aggregating in excess of \$1,000 during the calendar year. 2 U.S.C. §431(4)(A).

7. A political committee is required to file a Statement of Organization within ten (10) days after becoming a political committee. 2 U.S.C. §433(a).

8. On December 31, 1999, Draft Mark James for Congress contributed \$1,000 for the 2000 primary election and \$1,000 for the 2000 general election to Friends of Jon Porter, Inc., and transferred its remaining \$3,094.44 in cash on hand to the Committee to Elect Mark James.

9. On December 31, 1999, the Committee to Elect Mark James made contributions of \$1,000 for the 2000 primary election and \$1,000 for the 2000 general election to Friends of Jon Porter from Committee funds permissible under the Act.

10. Mark James authorized the Committee to Elect Mark James to make these two \$1,000 contributions to the Friends of Jon Porter Committee.

11. The Committee to Elect Mark James has submitted testimony that it relied upon the advice of the fundraising consultant to Friends of Jon Porter to determine that the contributions it made were permissible under the Act. The contributions were refunded by Friends of Jon Porter prior to the time that the complaint in this matter was filed.

12. On or about February 1, 2000, the Friends of Jon Porter Committee refunded \$2,000 to Draft Mark James for Congress and on or about February 1, 2000, Friends of Jon Porter refunded \$1,000 of contributions to the Committee to Elect Mark James. These refunds were issued prior to the date the Complaint was filed.

V. The Committee to Elect Mark James violated 2 U.S.C. §433(a) by failing to register as a political committee after making contributions in excess of \$1,000 notwithstanding the refund. Mark James, individually, did not violate any provisions of the Act.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of one thousand dollars (\$1,000.00) pursuant to 2 U.S.C. §437g(a)(5)(A) and will cease and desist from violating 2 U.S.C. §433(a).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

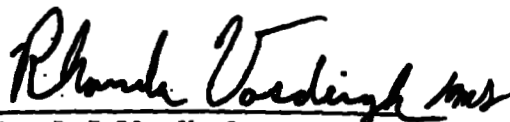
IX. Respondents shall have no more than 30 days from the date this agreement becomes effective to comply with and implement the requirement(s) contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein and no other statement, promise or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:


Lawrence H. Norton  
General Counsel

BY:

  
Rhonda J. Vosdingh  
Associate General Counsel

4/4/03  
Date

FOR THE RESPONDENTS

  
Paul E. Sullivan, Esq.  
Counsel for Respondents

2/4/03  
Date

23-04-406-1124